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October 25, 1999

EXECUTIVE SECRETARY

VIA HAND DELIVERY

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Petition by ICG Telecom Group, Inc. for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. pursuant to Section 252(b) of the Telecommunications Act of 1996*
Docket No. 99-00377

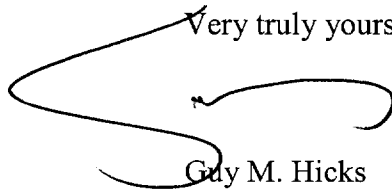
Dear Mr. Waddell:

Enclosed are the original and thirteen copies of the following rebuttal testimony on behalf of BellSouth Telecommunications, Inc.:

William Taylor
Alphonso Varner.

Copies of the enclosed are being provided to counsel of record for all parties.

Very truly yours,



Guy M. Hicks

GMH:ch
Enclosure

FILE

CERTIFICATE OF SERVICE

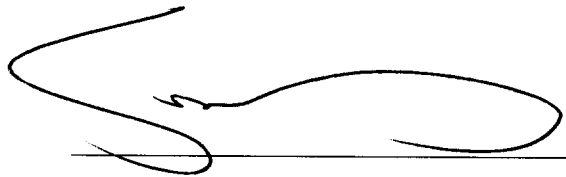
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BELLSOUTH TELECOMMUNICATIONS, INC.
REBUTTAL TESTIMONY OF ALPHONSO J. VARNER
BEFORE THE TENNESSEE REGULATORY AUTHORITY
DOCKET NO. 99-00377
OCTOBER 25, 1999

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH
TELECOMMUNICATIONS, INC. ("BELLSOUTH") AND YOUR
BUSINESS ADDRESS.

A. My name is Alphonso J. Varner. I am employed by BellSouth as Senior
Director for State Regulatory for the nine-state BellSouth region. My business
address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?

A. Yes. I filed direct testimony and seven exhibits on October 15, 1999.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My testimony rebuts portions of the direct testimony filed by ICG Telecom
Group, Inc. ("ICG") witnesses on October 15, 1999.

Treatment of Internet Service Provider ("ISP") Traffic

1 Q. ICG ADVOCATES PAYMENT OF RECIPROCAL COMPENSATION FOR
2 ISP-BOUND TRAFFIC. IS IT REASONABLE FOR RECIPROCAL
3 COMPENSATION TO BE PAID FROM LOCAL SERVICE REVENUES?
4

5 A. No. The FCC has clearly established that ISP-bound traffic is access traffic,
6 not local traffic. As I discussed in my direct testimony, the local exchange
7 rates paid by end user customers were never intended to recover costs
8 associated with providing access service and were established long before the
9 Internet became popular. Basic local exchange service customers buy access
10 to the Internet directly from their ISP, typically for a recurring monthly charge.
11 The ISP, therefore receives its revenue directly from end user customers.
12 Further, LECs that serve the ISPs are compensated for the service they provide
13 directly from the ISP through business exchange rates.
14

15 In addition to the compensation ICG receives directly from its ISP customers,
16 ICG wants additional compensation from BellSouth even though BellSouth
17 doesn't collect revenues for this service. This compensation purportedly
18 recovers some unknown cost that ICG claims it does not receive from its ISP
19 customers, but never successfully identifies.
20

21 To demonstrate how absurd ICG's claim is, consider the following example.
22 Assume a BellSouth residential customer in Tennessee subscribes to an ISP
23 and that ISP is served by a CLEC. Assume that customer uses the Internet a
24 mere 6.5 hours per week, i.e., a little under 56 minutes per day. This usage
25

1 would generate a reciprocal compensation payment by BellSouth to the CLEC
2 of \$5.51 per month assuming a \$.0033 per minute reciprocal compensation rate
3 (current approved interim rate for reciprocal compensation) [\$.0033 * 55.7
4 minutes/day * 30 days]. BellSouth serves residence customers in Tennessee at
5 an average of \$10.95 per month (flat-rate local rate). Therefore, in this
6 example, BellSouth would retain only \$5.44 (less than 50%) of local service
7 revenue it receives from its end users, after paying the CLEC \$5.51. This
8 situation makes no economic sense and would place an unfair burden on
9 BellSouth and its customers if BellSouth were required to pay ICG, or any
10 other CLEC, more in reciprocal compensation than what BellSouth receives
11 per month per customer for providing basic local service.

12
13 Q. MS. SHONHAUT, AT PAGES 3-5, PURPORTS TO PROVIDE
14 “COMPELLING PUBLIC POLICY JUSTIFICATIONS FOR PROVIDING
15 RECIPROCAL COMPENSATION FOR CALLS TO ISPs”. PLEASE
16 COMMENT.

17
18 A. Ms. Shonhaut’s supposed public policy justifications are simply benefits to
19 ICG and its ISP customers and not public benefits at all. Ms. Shonhaut
20 suggests that without reciprocal compensation for ISP-bound traffic, CLECs,
21 that predominantly serve ISPs will be forced to raise their rates, decline to
22 provide service to ISPs, or even cease to do business in Tennessee.

23
24 ICG’s veiled threat that CLECs would leave the Tennessee market if they
25

1 don't receive reciprocal compensation for ISP-bound traffic is implausible.
2 First, the prices that BellSouth charges its ISP customers do not reflect receipt
3 of any reciprocal compensation, and it is those prices that ICG is competing
4 against. ICG provides no evidence to show that it needs reciprocal
5 compensation to compete for ISP customers. If BellSouth does not require
6 reciprocal compensation to offer a competitive price, why would ICG?

7
8 Second, as I demonstrated in my direct testimony through the following chart,
9 reciprocal compensation allows the CLEC to offer lower prices to ISPs without
10 reducing their net margins. Thus, reciprocal compensation subsidizes the prices
11 the CLEC charges the ISP. Removing reciprocal compensation wouldn't force
12 ICG to raise its rates; it would simply put ICG's margins in the same range as
13 BellSouth's.

	<i>SERVING AN ISP AND RECEIVING RECIPROCAL COMPENSATION</i>	<i>SERVING AN ISP WITHOUT RECEIVING RECIPROCAL COMPENSATION</i>
REVENUE FROM ISP FOR SERVICE	\$600	\$900
RECIPROCAL COMPENSATION REVENUE PAID	\$300	\$0
COST OF PROVIDING SERVICE TO ISP	(\$600)	(\$600)
NET MARGIN	\$300	\$300

22 When the smoke clears, what remains is ICG's claim that it would cease to
23 provide service in Tennessee unless it receives a subsidy from BellSouth.
24 There is no public policy basis for this arrangement, especially when the
25

1 subsidy is funded by BellSouth's end user customers.

2

3 Q. SHOULD THE AUTHORITY ESTABLISH A POLICY FOR TREATING
4 ISP-BOUND TRAFFIC ON A CASE BY CASE BASIS?

5

6 A. No. This decision is really a policy determination that affects more than just
7 BellSouth and ICG. The compensation that should be paid for ISP-bound
8 traffic affects incumbents, CLECs, ISP, internet users, and local ratepayers,
9 among others. Because this issue has industry wide significance, the Authority
10 should consider the full impact of any inter-carrier compensation decision on
11 the industry, rather than on a case-by-case basis.

12

13 Q. WHAT IS THE ESTIMATED FINANCIAL IMPACT TO INCUMBENT
14 LOCAL EXCHANGE CARRIERS IF ISP TRAFFIC WERE SUBJECT TO
15 THE PAYMENT OF RECIPROCAL COMPENSATION?

16

17 A. If Internet traffic were subject to the payment of reciprocal compensation,
18 BellSouth conservatively estimates that the annual reciprocal compensation
19 payments by incumbent local exchange carriers in the United States for ISP
20 traffic could easily reach \$2.6 billion by the year 2002. This estimate is based
21 on 64 million Internet users in the United States, an average Internet usage of
22 6.5 hours per week, and a low reciprocal compensation rate of \$.002/minute.
23 This is a totally unreasonable and unacceptable financial liability on the local
24 exchange companies that serve residential and small business users who access

25

1 ISPs that are customers of other LECs. CLECs targeting large ISPs for this
2 one-way traffic and that can decline to serve residential customers will benefit
3 at the expense of those carriers like BellSouth that have carrier of last resort
4 obligations. .
5

6 Q. DO YOU HAVE ANY DATA THAT REFLECTS THE IMPACT OF
7 PAYING RECIPROCAL COMPENSATION FOR ISP TRAFFIC IN
8 TENNESSEE?
9

10 A. The following charts demonstrate the minutes of use and billings from October
11 1998 through September 1999 for ISP and non-ISP traffic:.
12
13

ISP-BOUND TRAFFIC (10/98 – 9/99)			
Billed Minutes of Use		Billed Revenue	
BST Sends to CLECs	CLECs Send to BST	CLECs Bill BST	BST Bills CLECs
3,630,949,132	68,176,356	\$39,573,466	\$0

NON-ISP LOCAL TRAFFIC (10/98 – 9/99)			
Billed Minutes of Use		Billed Revenue	
BST Sends to CLECs	CLECs Send to BST	CLECs Bill BST	BST Bills CLECs
998,957,449	470,379,259	\$10,277,575	\$4,881,418

23
24 Q. WHAT DO THESE CHARTS SHOW RELATIVE TO THE COMPETITIVE
25

1 MARKETPLACE IN TENNESSEE?

2

3 A. These charts clearly demonstrate that the payment of reciprocal compensation
4 for ISP-bound traffic would create a huge distortion in the marketplace. First,
5 it would reduce the incentive for CLECs to serve residential and business
6 customers, particularly those that are Internet subscribers. Why would a CLEC
7 serve a customer that would cost them virtually every cent of the local revenue
8 they obtained from that customer? Second, it would result in a subsidy to the
9 CLEC. The revenues obtained from the end user by its local service provider
10 would go directly into the pocket of the CLEC or the ISP. Third, it would
11 distort the pricing of services to ISPs. Using reciprocal compensation
12 payments, the CLEC could pass along price breaks to the ISP that would not
13 normally occur in a non-distorted, competitive market.

14

15 Q. PLEASE DESCRIBE HOW THE DATA IN YOUR CHARTS SHOW THAT
16 THE MARKET IN TENNESSEE IS DISTORTED?

17

18 A. The charts demonstrate that during the previous 12 month period in Tennessee
19 CLECs delivered 53 times as much traffic to their ISPs as they sent to ISPs
20 served by BellSouth. Such a disparity might be reasonable if CLECs were
21 providing service to the majority of ISPs. However, such is not the case;
22 BellSouth is providing the majority of service to ISP customers.

23

24 These charts make two points very clear: (1) the size of the subsidy to CLECs

25

1 serving ISPs is very large; and (2) CLECs are targeting ISP customers in lieu
2 of end users.

3
4 The charts indicate that the size of the subsidy in Tennessee was more than \$39
5 million for the past year. As reflected in the attached exhibit (AJV-2), that
6 amount is growing rapidly.

7
8 Clearly, the non-ISP amounts are small in both directions. In fact, the net non-
9 ISP reciprocal compensation amounts for both companies are miniscule
10 compared to the ISP amounts. The fact that BellSouth provides the majority of
11 ISP service, while CLECs actually deliver more ISP traffic than BellSouth
12 does, plus the fact that the amount of non-ISP traffic is small, is convincing
13 evidence that CLECs are targeting ISP customers.

14
15 Q. ON PAGE 9, MR. STARKEY STATES THAT ISP-BOUND TRAFFIC IS
16 FUNCTIONALLY NO DIFFERENT THAN OTHER TYPES OF TRAFFIC
17 FOR WHICH BELL SOUTH HAS AGREED TO PROVIDE RECIPROCAL
18 COMPENSATION. IS HE CORRECT?

19
20 A. No. Mr. Starkey is incorrect. Traffic bound for the Internet for Internet Service
21 Providers ("ISP-bound traffic") is functionally equivalent to access traffic, not
22 local traffic. As I stated in my direct testimony, only local traffic is subject to
23 reciprocal compensation obligations. As previously confirmed by the Federal
24 Communications Commission's ("FCC") Declaratory Ruling, ISP-bound
25

1 traffic is jurisdictionally interstate; therefore, reciprocal compensation for ISP-
2 bound traffic under Section 251 is not applicable.

3

4 Q. MR. STARKEY CLAIMS ON PAGE 14 THAT CALLS DIRECTED TO ISPs
5 ARE FUNCTIONALLY IDENTICAL TO LOCAL VOICE CALLS FOR
6 WHICH BST HAS AGREED TO PAY TERMINATION CHARGES.
7 PLEASE COMMENT.

8

9 A. No. The equipment utilized is similar for ISP and voice calls, but that is
10 irrelevant to establishing an inter-carrier compensation mechanism. For
11 example, a call directed to an interexchange carrier's ("IXC's") point of
12 presence ("POP") uses similar equipment to a local call. Mr. Starkey would
13 agree that such calls to an IXC's POP are not subject to reciprocal
14 compensation. It is not the technical use of the facilities that is relevant here;
15 rather it is the nature of the traffic. Just like IXC traffic, ISP-bound traffic is
16 originating access traffic. As a result, both access service providers should be
17 compensated by the cost causer, i.e., the ISP. On local calls originated by a
18 BellSouth end user, BellSouth is the only carrier collecting revenues.
19 Conversely, on calls directed to ISPs served by ICG, only ICG is collecting
20 revenue.

21

22 Q. AT PAGES 6-7 OF HIS TESTIMONY, MR. STARKEY QUOTES FROM
23 PARAGRAPH 25 OF THE FCC'S DECLARATORY RULING IN AN
24 ATTEMPT TO SHOW THAT THE TENNESSEE REGULATORY

25

1 AUTHORITY (“AUTHORITY”) SHOULD APPLY RECIPROCAL
2 COMPENSATION TO ISP-BOUND TRAFFIC IN THE PARTIES’
3 INTERCONNECTION AGREEMENT. PLEASE COMMENT.
4

5 A. Mr. Starkey’s interpretation of paragraph 25 is incorrect. The basis for
6 paragraph 25 is to advise the state commissions that, in the absence of a federal
7 rule governing ISP-bound traffic, states may “at this point” determine how ISP
8 traffic should be treated in interconnection agreements. In other words, to do
9 so would not violate any federal rule “at this point.” However in its NPRM,
10 the FCC asked for comment from the parties as to whether it is proper for
11 states to address ISP traffic in arbitration proceedings. BellSouth believes it is
12 not within the states’ authority to do so and the FCC lacks the power to vest
13 that authority with the state commissions. In any event, the FCC notes that
14 decisions by the states must be consistent with federal law and that states must
15 comply with the FCC’s rules when adopted.

16
17 In light of this instruction to the states, it is important to emphasize the FCC’s
18 position as stated in footnote 87 of its Declaratory Ruling: “We conclude in
19 this Declaratory Ruling, however, that ISP-bound traffic is non-local interstate
20 traffic. Thus, the reciprocal compensation requirements of section 251(b)(5) of
21 the Act and Section 51, Subpart H (Reciprocal Compensation for Transport
22 and Termination of Local Telecommunications Traffic) of the Commission’s
23 rules do not govern inter-carrier compensation for this traffic.” The
24 inescapable conclusion that the Authority must reach is that the FCC has
25

1 exercised jurisdiction over ISP-bound traffic and footnote 87 states that ISP-
2 bound traffic is not subject to reciprocal compensation obligations of the Act.
3 Instead, ISP-bound traffic will be subject to an inter-carrier compensation
4 mechanism more appropriate to interstate access traffic.
5

6 Q. AT PAGES 7-8, MR. STARKEY FURTHER QUOTES FROM
7 PARAGRAPH 25 IN AN ATTEMPT TO SHOW THAT THE FCC WAS
8 ENCOURAGING STATES TO APPLY RECIPROCAL COMPENSATION
9 TO ISP-BOUND TRAFFIC. DO YOU AGREE?
10

11 A. No. The FCC is not at all encouraging the states to adopt reciprocal
12 compensation for ISP-bound traffic in paragraph 25. Footnote 87 clearly
13 demonstrates the fallacy of Mr. Starkey's conclusion. Instead, the FCC is
14 simply explaining why it believes those states that ruled that reciprocal
15 compensation is applicable to ISP-bound traffic could have done so.
16 Paragraph 25 states in part, "[w]hile to date the Commission has not adopted a
17 specific rule governing the matter, we do note that our policy of treating ISP-
18 bound traffic as local for purposes of interstate access charges would, if
19 applied in the separate context of reciprocal compensation, suggest that such
20 compensation is due for that traffic." The rest of the Order, however, goes on
21 to say conclusively that such a conclusion is inaccurate. The FCC was simply
22 advising the states that it could understand how its failure to adopt a specific
23 rule could be a reason that the states might not have fully understood the
24 FCC's previous decisions that ESP/ISP traffic is access traffic.
25

1

2 Q. DO THE FCC'S REFERENCES TO TREATING ISPs AS END USERS OR
3 TREATING ISP-BOUND TRAFFIC AS LOCAL FOR ACCESS CHARGE
4 PURPOSES IMPLY THAT RECIPROCAL COMPENSATION SHOULD
5 APPLY TO ISP TRAFFIC?

6

7 A. No. These references must be interpreted in light of the way the terms are used
8 in the access charge regime. Under the access charge regime, designation as a
9 carrier means that the party so designated must pay access charges. If a party
10 does not pay access charges, they are treated as an end user for purposes of
11 assessing access charges because end users don't pay access charges.
12 Likewise, traffic sent to carriers that don't pay access charges is treated as
13 local for access charge purposes because access charges don't apply to local
14 traffic. Neither of these references means that the carrier is an end user or that
15 the access traffic is local traffic. Nowhere in the FCC's Declaratory Ruling
16 does the FCC reach such a conclusion. On the contrary, the FCC clearly states
17 in ¶16 that the exemption from paying access charges does not transform this
18 access traffic into local traffic.

19

20 Q. MR. STARKEY AT PAGE 15 IMPLIES THAT A CLEC WOULD NOT
21 HAVE ANY COST RECOVERY ASSOCIATED WITH SERVING AN ISP
22 PROVIDER IF NOT FOR THE RECIPROCAL COMPENSATION IT
23 RECEIVES FROM ILECS. DO YOU AGREE?

24

25

1 A. No. ISPs are carriers. As carriers, ISPs obtain access services from their
2 serving local exchange carrier ("LEC"), in this case, ICG. The rates ISPs pay
3 their serving LEC covers the full charge for the service provided to them.
4 When an IXC or an ISP purchases access service, it is the IXC or the ISP, not
5 the end user, who is the customer of the LEC for that service. The revenue the
6 LEC receives from the ISP for access services is the only means to recover the
7 costs of delivering the traffic to the ISP. Any additional compensation would
8 only serve to augment the revenues the LEC receives from its ISP customer at
9 the expense of the originating LEC's end user customers. In other words,
10 paying ICG reciprocal compensation for ISP-bound traffic would result in
11 BellSouth's end user customers subsidizing ICG's operations. Indeed, the
12 FCC has recognized that the source of revenue for transporting ISP-bound
13 traffic is the charge that the ISP pays for the access service. Further
14 compensation to the ISP-serving LEC is inappropriate and is not in the public
15 interest.
16
17 If ICG is not recovering its cost from the ISPs it serves, it is likely that ICG is
18 charging below cost rates to those ISPs. Apparently ICG's complaint is that it
19 will no longer be able to charge below cost rates when the subsidy it received
20 from BellSouth in the form of reciprocal compensation goes away.
21 Obviously, such complaint provides no basis for continuing the subsidy.
22 However, it does clearly show why such subsidies should not be established,
23 because once companies are receiving the revenue, they are reluctant to give it
24 up.

25

1

2 It is difficult to empathize with ICG's situation. BellSouth has been an access
3 service provider for ESPs and ISPs for years. Though BellSouth has been
4 unable to collect the otherwise applicable switched access charges due to the
5 FCC's exemption, BellSouth's source of cost recovery has been the FCC's
6 required substitute rates (i.e., business exchange service rates) it charges ISPs.

7

8 Q. DOES MR. STARKEY CONTRADICT HIS OWN CLAIM THAT CLECs
9 DO NOT RECOVER COSTS FROM ISPs?

10

11 A. Yes. Interestingly, Mr. Starkey directly contradicts his contention that
12 competitive local exchange carriers ("CLECs") do not recover their costs from
13 ISPs. The contradiction is found in the following comment at page 11:
14 "Indeed, ISPs and other technologically reliant customer groups are, in many
15 cases, providing the revenue and growth potential that will fund further CLEC
16 expansion into other more traditional residential and business markets." If
17 CLECs are not recovering their cost to provide service to ISPs, what is the
18 source of the revenue to fund expansion? The revenue comes from CLECs
19 like ICG demanding from ILECs the inappropriate reciprocal compensation
20 payments on non-local ISP-bound access traffic. The Authority should see this
21 situation for what it is. ICG is asking the Authority to require BellSouth to
22 fund ICG's business operations and expansion plans. Such a scheme creates a
23 market distortion that should not be allowed to occur. If ICG's
24 recommendation is adopted, ICG wins, ISPs win and BellSouth's end user

25

1 customers lose and, ultimately, competition in the local exchange suffers.
2 Reciprocal compensation for ISP-bound traffic sets up a win-win-lose
3 situation, versus an appropriate inter-carrier compensation sharing mechanism,
4 which establishes a win-win-win situation.

5

6 Q. AT PAGE 17, MR. STARKEY TAKES A DIFFERENT TACK, SETTING
7 UP A HYPOTHETICAL SITUATION WHERE BELL SOUTH IS THE
8 ONLY LOCAL PROVIDER AND SERVES ALL ISP CUSTOMERS. HE
9 CONTENDS THAT FOR BELL SOUTH TO MEET THE INCREASED
10 NETWORK REQUIREMENTS CAUSED BY ISPS, BELL SOUTH WOULD
11 "UNDOUBTEDLY BE ASKING STATE COMMISSIONS AND THE FCC
12 FOR RATE INCREASES TO RECOVER THOSE ADDITIONAL
13 INVESTMENT COSTS." DO YOU AGREE?

14

15 A. No. BellSouth is not arguing that routing traffic through an ISP should be
16 done for free. In Mr. Starkey's hypothetical case, BellSouth would be
17 receiving revenues from the ISP for the access service. When ICG serves that
18 ISP, BellSouth no longer collects any revenue, ICG does. A portion of those
19 revenues collected by ICG should be used to compensate BellSouth for the
20 costs it incurs to transport that access traffic to ICG.

21

22 Q. MR. STARKEY STATES THAT BELL SOUTH SHOULD BE
23 "ECONOMICALLY INDIFFERENT AS TO WHETHER IT ITSELF
24 INCURS THE COST TO TERMINATE THE CALL ON ITS OWN

25

1 NETWORK OR WHETHER IT INCURS THAT COST THROUGH A
2 RECIPROCAL COMPENSATION RATE PAID TO ICG". PLEASE
3 RESPOND. (PAGES 17-18)
4

5 A. Mr. Starkey leaves out one very important point. When BellSouth uses its own
6 network to route calls to a BellSouth served ISP, it charges the ISP business
7 exchange rates. It is not able to recover its cost from the end user that places
8 the call. When a CLEC serves the ISP, only the CLEC receives revenues for
9 the access service provided to the ISP. Although BellSouth incurs cost for
10 delivering calls to the CLEC that are destined for the Internet, under reciprocal
11 compensation BellSouth is unable to recover that cost. As I stated earlier, ICG
12 should reimburse the originating carrier (BellSouth) for its cost of transporting
13 the ISP-bound call to ICG's point of interconnection. Instead, ICG wants
14 BellSouth to incur even more of the costs without receiving any of the
15 compensation. This is a perversion of the entire access charge system that the
16 Authority should not allow to occur.

17
18 Q. MR. STARKEY STATES ON PAGE 15 THAT IT IS A SIMPLE
19 ECONOMIC REALITY THAT BOTH ISP CALLS AND OTHER CALLS
20 GENERATE EQUAL COSTS THAT MUST BE RECOVERED BY THE
21 RECIPROCAL COMPENSATION RATE PAID FOR THEIR CARRIAGE.
22 DO YOU AGREE?

23
24 A. No, this statement is wrong. Costs for calls directed to ISPs are to be
25

1 recovered from the ISP, rather than the originating end user. Costs for local
2 calls are recovered from the originating end user. This fact means that
3 reciprocal compensation is inappropriate for ISP-bound calls. In the case of a
4 call sent from BellSouth to an ISP served by ICG, ICG is the only carrier
5 collecting revenue for the ISP-bound calls. In the case of a local call directed
6 from a BellSouth end user to an ICG end user, BellSouth would be the only
7 carrier collecting revenue. Mr. Starkey ignores this important point and claims
8 that the only carrier collecting revenue for ISP-bound calls should receive even
9 more revenue.

10

11 Q. CONTRARY TO MR. STARKEY'S CONTENTION, WHY IS IT POOR
12 PUBLIC POLICY TO REQUIRE THE PAYMENT OF RECIPROCAL
13 COMPENSATION FOR ISP TRAFFIC? (PAGES 8-10)

14

15 A. In paragraph 33 of its ISP Declaratory Ruling, the FCC stated its desire that
16 any inter-carrier compensation plan advance the FCC's "goals of ensuring the
17 broadest possible entry of efficient new competitors, eliminating incentives for
18 inefficient entry and irrational pricing schemes, and providing to consumers as
19 rapidly as possible the benefits of competition and emerging technologies." In
20 fact, payment of reciprocal compensation on ISP-bound traffic would be an
21 irrational pricing scheme contrary to the FCC's stated goals for the following
22 reasons:

- 23 • Reduces incentive to serve residence and business end user customers;
- 24 • Further subsidize ISPs;

25

- 1 • Encourages uneconomic preferences for CLECs to serve ISPs due to the
- 2 fact that CLECs can choose the customers they want to serve and CLECs
- 3 could offer lower prices to ISPs without reducing the CLEC's net margin;
- 4 • Increases burden on end user customers;
- 5 • Establishes unreasonable discrimination among providers (IXCs versus
- 6 ISPs);
- 7 • ILEC is not compensated for any costs incurred in transporting ISP-bound
- 8 traffic; and
- 9 • Creates incentives to arbitrage the system, such as schemes designed solely
- 10 to generate reciprocal compensation.

11

12 Q. AT PAGE 10-11, MR. STARKEY ATTEMPTS TO BUILD A CASE FOR
13 WHY ISP PROVIDERS SEEK OUT CLECS. PLEASE COMMENT.

14

15 A. In attempting to show why ISPs seek out CLECs to provide their access
16 service versus ILECs such as BellSouth, Mr. Starkey merely succeeds in
17 demonstrating why CLECs should not be subsidized by the ILEC through
18 reciprocal compensation. Mr. Starkey says that CLECs attract ISPs' business
19 because CLECs provide the service, products, technology, capacity, flexibility
20 and low prices that ISPs desire. If, in fact, all of his claims are true, ICG
21 should be able to attract ISP business even more easily than they attract other
22 business customers. Why then is it necessary for ICG to receive a subsidy
23 from BellSouth when it can so easily attract ISPs due to ICG's inherent
24 advantages? In fact, if these advantages are so significant, ICG should be able

25

1 to charge a higher price than BellSouth charges and still win the ISPs'
2 business.

3

4 Q. FURTHER, ON PAGE 19, MR. STARKEY STATES, "HOWEVER, IN THE
5 CASE OF RECIPROCAL COMPENSATION, IT HAS COME TO BST'S
6 ATTENTION THAT IT HAS BECOME, IN MANY CASES, A NET PAYOR
7 OF TERMINATION CHARGES BECAUSE CLECS HAVE BEEN
8 SUCCESSFUL IN ATTRACTING ISP PROVIDERS AND OTHER
9 TECHNOLOGICALLY DEMANDING CUSTOMERS. HENCE, IF
10 INDEED ITS RATES FOR TRAFFIC TRANSPORT AND TERMINATION
11 ARE OVERSTATED, IT BECOMES THE PARTY MOST LIKELY TO BE
12 HARMED." WHAT IS YOUR RESPONSE?

13

14 A. The above statement is wrong. Reciprocal compensation does not apply to
15 access traffic. BellSouth is not arguing for a lower reciprocal compensation
16 rate for this traffic. Nor is BellSouth objecting to paying reciprocal
17 compensation because ISPs have a high volume of incoming traffic. BellSouth
18 has not objected to paying reciprocal compensation for end users with these
19 characteristics (e.g., pizza delivery service, etc.). BellSouth, however, is
20 objecting to paying reciprocal compensation on access traffic because it is not
21 applicable and is not in the public interest.

22

23 Q. WHAT IS YOUR RESPONSE TO MR. STARKEY'S ARGUMENT ON
24 PAGES 22-23 THAT, BECAUSE OF BELL SOUTH'S SUCCESS IN

25

1 ADDING SECOND LINES, BELLSOUTH SHOULD PAY RECIPROCAL
2 COMPENSATION FOR ISP-BOUND TRAFFIC?

3

4 A. None of this discussion is relevant to the issue at hand. These second lines are
5 no different from first lines when it comes to the question of who should pay
6 for access traffic. This entire discussion is irrelevant to the issue of reciprocal
7 compensation. BellSouth's success in selling additional services to its
8 customers has no bearing on whether there is justification for payment of
9 reciprocal compensation to CLECs for ISP-bound traffic. Despite the
10 irrelevance of his point, as stated earlier in the example in my testimony, if
11 forced to pay CLECs reciprocal compensation, BellSouth would end up paying
12 CLECs more than 50% of what BellSouth collects on each residence line.

13

14 Q. HOW DO YOU RESPOND TO MR. STARKEY'S CONTENTION AT
15 PAGE 22 THAT BELLSOUTH.NET'S "UNLIMITED USAGE" RATES
16 ARE FAR BELOW OTHER COMPETITORS?

17

18 A. Mr. Starkey is clearly misinformed. It is obvious by the advertisements
19 contained in Exhibit AJV-1 attached to this testimony, that BellSouth.net's
20 rates are not out of line with other ISPs. Exhibit AJV-1 includes three ISP
21 offerings for unlimited internet access at rates ranging from 16% to 36% less
22 than BellSouth.net's rate for unlimited access.

23

24 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

25

1

2 A. Yes.

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4 183385

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BellSouth Telecommunications, Inc.
TRA Docket No. 99-00377
Rebuttal Exhibit AJV-2

AMOUNTS BILLED FROM TENNESSEE CLECS TO BELL SOUTH


Invoice Date	ISP Usage	Local Usage	ISP MOUs	Local MOUs
Oct-98	\$ 1,954,451	\$ 167,259	162,617,125	70,754,978
Nov-98	\$ 1,179,871	\$ 722,979	180,379,380	67,680,624
Dec-98	\$ 1,355,685	\$ 715,095	190,558,151	68,263,344
Jan-99	\$ 2,438,243	\$ 810,977	222,962,489	72,471,513
Feb-99	\$ 2,677,451	\$ 831,119	285,976,369	74,747,514
Mar-99	\$ 3,437,145	\$ 775,445	262,796,769	83,314,011
Apr-99	\$ 3,400,091	\$ 1,246,555	316,676,993	98,508,260
May-99	\$ 3,802,087	\$ 1,197,313	307,956,890	94,241,887
Jun-99	\$ 3,877,915	\$ 1,439,847	313,052,508	95,677,013
Jul-99	\$ 4,795,676	\$ 854,572	380,103,045	78,437,973
Aug-99	\$ 5,216,126	\$ 822,232	488,707,329	95,228,318
Sep-99	\$ 5,438,726	\$ 694,183	519,162,084	99,632,014
Total	\$ 39,573,466	\$ 10,277,575	3,630,949,132	998,957,449

AFFIDAVIT

STATE OF GEORGIA)
 :
COUNTY OF FULTON)

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared Alphonso J. Varner, Senior Director, State Regulatory, BellSouth Telecommunications, Inc., who, being by me first duly sworn deposed and said that:

He is appearing as a witness before the Tennessee Regulatory Authority in Docket No. 99-00377 on behalf of BellSouth Telecommunications, Inc., and if present before the Authority and duly sworn, his testimony would be set forth in the annexed testimony consisting of 21 pages and 1 exhibit(s).



Alphonso J. Varner

Sworn to and subscribed
before me this 15th
day of October, 1999



NOTARY PUBLIC

TERESA L. ROCKWELL
Notary Public, Gwinnett County, Georgia
My Commission Expires October 28, 2001



CLICK HERE



**We have the latest in the bits-n-bytes realm
for Data Communications**

Site sponsored by Lucent Technologies

ISPs.com

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ABI Marketing

Unlimited Internet Access \$9.95 per mth 3 email addresses, 5 mg. web hosting unclued, 24-7 Tech Support, 10-1 line ratios, 1-800-267-9542

<http://www.abimarketinggroup.com> 800-267-9542

sales@abimarketinggroup.com

Dial-up Plans:

\$9.95 56 Kbps \$9.95/month unlimited (\$20.00 setup)

56k Modems: K56flex and V.90

Microsoft FrontPage support: Yes

Area Codes:

201, 202, 206, 210, 212, 213, 214, 215, 303, 305, 312, 313, 314, 315,
317, 401, 407, 410, 412, 415, 503, 510, 513, 516, 517, 518, 602, 612,
614, 615, 616, 617, 619, 704, 713, 716, 717, 718, 732, 734, 810, 813,
814, 817, 850, 860, 901, 904, 908, 910, 912, 914, 919, 941, 973

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Mailing Address:

ABI Marketing Group
10424 Shady Dr
10424 Shady Dr
Hudson, FL 34669


727-856-0275 (Voice)

727-856-4998 (Fax)

Information updated on March 6, 1999

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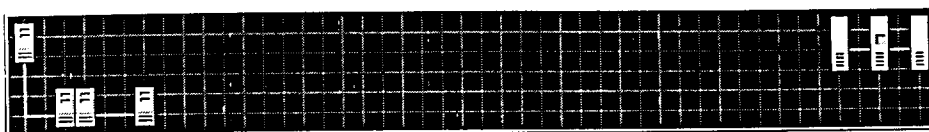




Where the **Pros** go
to stay on top of **IT**

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As low as \$10.83 a month for Unlimited Internet Access. Email Account. 5 Meg Free WebPage, V.90 and 56K Flex Technologies. Nationwide Roaming

<http://www.quickconnection.com> 206-361-4843

sales@quickconnection.com

Dial-up Plans:

Dialup Access 56 Kbps \$10.83/month unlimited

56k Modems: K56flex and V.90

Dial-up Customers: 2,900

Web Hosting:

\$ 19.95/Mo. for 350 Megs Virtual Domain, 100 Free POP3 Email Accou

Area Codes:

201, 202, 203, 205, 206, 207, 208, 209, 210, 212, 213, 214, 215, 216, 217, 218, 219, 228, 248, 252, 253, 254, 256, 281, 301, 302, 303, 304, 305, 307, 309, 310, 312, 313, 314, 315, 316, 317, 318, 319, 320, 323, 330, 334, 336, 352, 360, 401, 402, 404, 405, 406, 407, 408, 409, 410, 412, 413, 414, 415, 417, 419, 423, 425, 440, 501, 502, 503, 504, 505, 507, 508, 509, 510, 512, 513, 515, 516, 517, 518, 520, 530, 540, 541, 559, 561, 562, 573, 601, 602, 603, 605, 606, 607, 608, 609, 610, 612, 614, 615, 616, 617, 618, 619, 626, 630, 650, 661, 678, 701, 702, 703, 704, 706, 707, 708, 712, 713, 714, 715, 716, 717, 718, 719, 724, 727, 732, 734, 740, 757, 760, 765, 770, 773, 775, 781, 786, 801, 802, 803, 804, 805, 806, 808, 810, 812, 813, 814, 815, 816, 817, 818, 828, 831, 843, 847, 850, 860, 864, 901, 903, 904, 907, 908, 909, 910, 912, 914, 915, 916, 917, 918, 919, 920, 925, 931, 937, 940, 941, 949, 954, 956, 970, 972, 973, 978

Mailing Address:

Quickconnection Communications
P.O. Box 45008
Seattle, WA 98145

206-361-4843 (Voice)
Since 1998

Information updated on April 30, 1999

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Access 1 offers unlimited internet access for \$99/yr. All accounts include unlimited access, email, newsgroups, a 5 mb web site and we support up to 56k v.90 modems.

<http://www.access1.net/> 888-309-1970 info@access1.net

Dial-up Plans:

Annual Dial up	56 Kbps	\$8.25/month unlimited (\$15.00 s
Domain Name & Dial up	56 Kbps	\$33.25/month unlimited (\$50.00
Unlimited ISDN-Dual Channel	ISDN-2B	\$25.00/month unlimited (\$50.00
Dual Channel ISDN & Static IP	ISDN-2B	\$50.00/month unlimited (\$50.00

56k Modems: x2. K56flex and V.90

Microsoft FrontPage support: Yes

Dial-up Customers: 10,000

Dedicated Connections:

Access 1 offers dedicated services from ISDN to T-1. Dedicated T-

Web Hosting:

Domain name hosting begins at \$300 per year. This includes 20 mb

E-commerce solutions are also available. We offer SQL hosting, se

Internet Connectivity:

Pacific Bell Internet	47.824 Mbps	
GoodNet	13.896 Mbps	
GST	4.632 Mbps	(3 x T1)
NextLink	1.544 Mbps	(T1)

Area Codes:

201, 203, 212, 213, 215, 216, 310, 323, 408, 413, 415, 440, 505, 508, 510, 516, 520, 562, 602, 609, 610, 615, 617, 619, 626, 650, 702, 704, 707, 714, 718, 732, 760, 781, 805, 818, 908, 909, 914, 925, 949, 973, 978

Mailing Address:

Access Developers, LLC
6150 Lusk Blvd
Suite B-204
San Diego, CA 92121

619-638-3000 (Voice)
619-638-3080 (Fax)
Since 1995

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